

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Union Pacific Railroad Company, the County of Moultrie, agent
on behalf of the Township of Sullivan, and the State of Illinois,
Department of Transportation.

Stipulated Agreement regarding improving public safety at the
crossings of the Company's track with a public highway known as
Township Road ("TR") 72, also known as Black Dog Road,
located near Kirksville, Moultrie County, Illinois, designated as
crossings DOT 167 274P, milepost 178.28CC and DOT 167
275W, milepost 178.75CC.

T02-0058

ORDER

By the Commission:

On April 5, 2002, April 9, 2002, April 23, 2002, and May 30, 2002, respectively, the Staff of the Illinois Commerce Commission ("Commission"), the County of Moultrie ("County"), the Illinois Department of Transportation ("IDOT"), and the Union Pacific Railroad Company ("UP"), respectively, executed the Stipulated Agreement according to the provisions of Section 18c-7401 of the Illinois Commercial Transportation Law. The Stipulated Agreement, which is appended hereto, provides for safety improvements at two adjacent TR 72 crossings located near the unincorporated community of Kirksville, Moultrie County, Illinois. The Stipulated Agreement contains estimates of cost to accomplish the improvements and a division of cost among the parties.

The Commission, having given due consideration to the Stipulated Agreement, finds that:

- (1) the Commission has jurisdiction over the parties and the subject matter of this proceeding;
- (2) the physical characteristics of the subject highway-railroad grade crossings, rail/highway volumes and speeds are indicated on Exhibits A-1 and A-2 of the Stipulated Agreement, appended hereto;
- (3) the parties agree that in the interest of public safety the improvements as set forth in Section 2 of the Stipulated Agreement, appended hereto, should be performed;
- (4) the cost for the proposed improvements should be divided among the parties and the Grade Crossing Protection Fund of the Motor Fuel Tax Law, in accordance with the Law;

- (5) it is fair and reasonable that the Secretary of the Illinois Department of Transportation through the Grade Crossing Protection Fund of the Motor Fuel Tax Law ("Fund"), the UP, and the County, be directed to bear their respective portions of the actual cost of the proposed improvements as set forth in Section 5 of the Stipulated Agreement, appended hereto;

IT IS THEREFORE ORDERED that the terms of the Stipulated Agreement executed by the Staff of the Commission, the County of Moultrie, the Illinois Department of Transportation, and the Union Pacific Railroad Company on April 5, 2002, April 9, 2002, April 23, 2002, and May 30, 2002, respectively, be, and they are hereby, accepted and required to be met by the aforesaid parties.

IT IS FURTHER ORDERED that Union Pacific Railroad Company and the County of Moultrie be, and they are hereby, required and directed to proceed immediately in performing their work as set forth in Section 2 of the Stipulated Agreement, appended hereto, and shall complete their work within one (1) year from the date of this Order.

IT IS FURTHER ORDERED that upon completion of the TR 72 roadway realignment, Sullivan Township will in effect close the existing southern TR 72 crossing by officially vacating the roadway in the vicinity of the crossing as shown on Exhibit C, pages 2 through 5, of the Stipulated Agreement attached hereto. The plans for the roadway and the northern TR 72 crossing realignment, attached as Exhibit C, pages 2 through 5, detail the removal of portions of TR 72 north and south of the crossings as a part of this project, including the re-establishment of the ditch lines. However, a portion of the north approach to the northern TR 72 crossing will remain in place and a barricade shall be installed at the north right-of-way line to prevent access to the Company's track, said barricade to be a type-3 barricade conforming to the requirements of 92 Illinois Administrative Code Part 1535.701 and the Manual on Uniform Traffic Control Devices. The cost for closure, including the installation and maintenance of the barricade shall be borne by the Company.

IT IS FURTHER ORDERED that the Township of Sullivan, per a separate agreement with the Union Pacific Railroad Company, shall also vacate the TR 161A crossing located southwest of the TR 72 crossings. Barricades at this crossing are not required because the Moultrie County, agent on behalf of Sullivan Township, is to remove the roadway outside the Company's right of way and will turn this area back into farmland. The cost for this work shall be borne by the Moultrie County. Any reimbursement for any cost incurred by Moultrie County shall be made by Sullivan Township under a separate agreement. Also, the Union Pacific Railroad Company is to remove the roadway within its right-of-way and re-establish the ditch line along its track. The cost for this work shall be borne by the Union Pacific Railroad Company. The Union Pacific Railroad Company and Sullivan Township have entered into a separate agreement whereby the Company will

pay the Township \$17,500 per crossing vacated; as it pertains to this Agreement, including the TR 72 crossing (AAR/DOT 167 275W) and the TR 161A crossing, as further described in Exhibit A-1, page 2, of the Stipulated Agreement, appended hereto.

IT IS FURTHER ORDERED that the County of Moultrie shall submit a copy of the vacation ordinances, or other legal document, attesting that the south TR 72 and the TR 161A crossings have been vacated, to the Director of Processing and Information, Transportation Division of the Commission, prior to the closure of the aforesaid crossings.

IT IS FURTHER ORDERED that the cost of making the improvements herein required shall be divided among the parties and the Grade Crossing Protection Fund of the Motor Fuel Tax Law, as set forth in Section 5 of the Stipulated Agreement, appended hereto.

IT IS FURTHER ORDERED that all bills for expenditures authorized to be reimbursed from the Grade Crossing Protection Fund toward the warning device installation at the newly established TR 72 crossing shall be submitted to Mr. Henry Cronister, Bureau of Local Roads and Streets, Main Office of the Illinois Department of Transportation, 2300 South Dirksen Parkway, Springfield, IL 62764. A copy of all bills received shall be submitted to the Director of Processing and Information, Transportation Division of the Commission. The final bill for expenditures from the railroad shall be clearly marked "Final Bill". All bills shall be submitted no later than twelve (12) months from the completion date of the Commission Order(s) subsequent to this Agreement. Authorization for reimbursement from the Fund shall expire twelve (12) months after the completion date specified in this or any further Commission Orders. The Department shall, at the end of the 12th month from the completion date, de-obligate all residual funds accountable for installation costs for this project.

All bills for expenditures related to items authorized to be reimbursed from the Grade Crossing Protection Fund pertaining to the construction of the connecting road, shall be submitted to the District 5 Office, Bureau of Local Roads and Streets, Illinois Department of Transportation, 13473 IL Hwy. 133, P.O. Box 610, Paris, IL, 61944. A copy of all bills received by the Department shall be submitted to Director of Processing and Information, Transportation Division of the Commission. The final bill for expenditures from each party shall be clearly marked "Final Bill". All bills shall be submitted no later than twelve (12) months from the completion date of the Commission Order subsequent to this Agreement. Authorization for reimbursement from the Fund shall expire twelve (12) months after the completion date specified in this or any further Commission Orders. The Department shall, at the end of the 12th month from the completion date, de-obligate all residual funds accountable for the roadway project.

IT IS FURTHER ORDERED that the Union Pacific Railroad Company and County of Moultrie shall at six (6) month intervals from the date of this Order until the project has been completed, submit written reports to the Director of Processing and Information, Transportation Division of the Commission, stating the progress each has made toward completion of the work herein required. Each progress report shall include the Commission Order number, the Order date, the project completion date as noted in the Order subsequent to this Agreement, crossing information (the name, title, mailing address, telephone number, and facsimile number of the Company and County employee responsible for management of their portions of the project).

IT IS FURTHER ORDERED the Union Pacific Railroad Company and the County of Moultrie shall at six (6) month intervals from the date of the Order subsequent to this Agreement and continuing until the project is completed, submit written reports to the Director of Processing and Information, Transportation Division of the Commission, stating the status of expenditures of the total project and percentage of completion of the project. If the project is behind schedule, the report must also include a brief explanation of the reason(s) for the delay.

IT IS FURTHER ORDERED that Union Pacific Railroad Company shall within one hundred twenty (120) days from the date of this Order furnish to the Illinois Department of Transportation for its approval two (2) copies of the general layout plans applying to the installation of automatic flashing light signals and gates.

IT IS FURTHER ORDERED that the Illinois Department of Transportation shall, within thirty (30) days of its receipt of the aforesaid general layout plan, furnish to the Commission a statement of its approval or disapproval thereof, this for the information of the Commission when considering the application herein required to be filed in accordance with Form 3 of 92 Ill. Adm. Code 1535.

IT IS FURTHER ORDERED that Union Pacific Railroad Company shall file Form 3 of 92 Ill. Adm. Code 1535 of this Commission showing details of the automatic warning devices herein required at the relocated TR 72 crossing and shall receive approval thereof by X-Resolution before commencing the work of installation.

IT IS FURTHER ORDERED that Union Pacific Railroad Company shall submit to the Director of Processing and Information, Transportation Division of the Commission within five (5) days of the completion of the its work herein required, a National Inventory Update Report Form for each crossing, including the crossings to be eliminated, as a notice of said completions.

IT IS FURTHER ORDERED that the County of Moultrie be, and it is hereby, required and directed to submit a written notice, to the Director of Processing and Information, Transportation Division of the Commission, of the date the work herein

required of it has been completed, said notice shall be submitted within five (5) days after said completion date.

IT IS FURTHER ORDERED that, subject to Section 18c-2201 and 18c-2206 of the Law, this is a final decision of the Commission subject to the Administrative Review Law.

By Order of the Commission this 19th day of June, 2002.

*Richard P. Malins*³

Chairman

JUDGE
SECTION CHIEF <i>MES</i>
<i>[Signature]</i> ORDERS SUPERVISOR